

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
SPARTANBURG DIVISION

First South Bank,	)	CIVIL ACTION №: 7:10-2097-TMC
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Fifth Third Bank, N.A., doing business as	)	
Fifth Third Bank and formerly known as	)	<b>AFFIDAVIT OF ROBERT F. GOINGS</b>
and successor in interest of First Charter	)	
Bank and First Charter Corporation, First	)	
Charter Bank and First Charter Corporation,	)	
	)	
Defendants.	)	

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PERSONALLY APPEARED BEFORE ME, Robert F. Goings, upon being duly sworn,  
deposes and states:

1. Joel Collins Jr. and I represent the Plaintiff First South Bank in the above-referenced matter.

2. On Friday, November 19, 2010, I received a call from Defendants' counsel, Stephen Allred, wherein he suggested that Fifth Third desired to engage in mediation. I discussed with Mr. Allred that mediation was typically mandatory in the District Court of South Carolina. We agreed that this mediation would be beneficial and would also satisfy the court's later requirement to engage in mediation.

3. The Defendants suggested Robert M. Erwin, Jr. to serve as the mediator. We consented.

4. The mediation took place on January 20, 2011 at Collins and Lacy, P.C. in Columbia, South Carolina.

5. Mr. Collins and I represented First South Bank at the mediation. The President of First South Bank, W.C. "Chip" Lyerly, and Chief Credit Officer and Senior Vice President, Frank Callison attended. Attorneys Alan Statman and Stephen Allred attended on behalf of the Defendants, along with three officers of Fifth Third Bank from Cincinnati, Ohio.

6. The mediation was concluded that afternoon when the mediator came into our conference room and said that the entire delegation of the Defendants had left the mediation.

7. This mediation cost \$4,022.92. A true and accurate copy of the invoice from Mr. Erwin is attached hereto as Exhibit A.

8. First South Bank does not desire to incur the costs and expenses of a second mediation and believes it has already complied with the requirement to mediate this case.

  
Robert F. Goings  
ATTORNEY FOR PLAINTIFF

**SWORN TO AND SUBSCRIBED BEFORE ME**

this 8<sup>th</sup> day of December, 2011.

Mallory Guibault (L.S.)  
NOTARY PUBLIC FOR SOUTH CAROLINA  
MY COMMISSION EXPIRES: 9/6/2021

LAW OFFICES  
**ROBERT M. ERWIN, JR.**  
305 Main Street  
Greenwood, South Carolina 29646  
Telephone (864) 229-5010  
Toll Free Telephone (800) 880-5010  
FACSIMILE (864) 229-2665

January 24, 2011

Joel W. Collins, Jr.  
Collins and Lacy  
P.O. Box 12487  
Columbia, SC 29211

Stephen Allred  
Bank of America Corp. Center  
100 North Tryon st., Suite 2900  
Charlotte, NC 28292

Re: First South Bank vs. Fifth Third Bank, N.A., d/b/a Fifth Third Bank, et al

FEES AND EXPENSES		
12/22/10	Review of complaint, motion to change venue, affidavits, etc., preparation of mediation agreement (1.2 hours X \$325.00/hour)	\$390.00
1/2/11	Telephone conference with Attorney Allred concerning details of claim, process, etc., review and outline of submittals (.8 hour X \$325.00/hour)	\$260.00
1/14/11	Review and outline of submittals (.9 hour X \$325.00/hour)	\$292.50
1/17/11	Telephone conference with Attorney Collins concerning details of claim (.3 hour X \$325.00/hour)	\$97.50
1/19/11	Completing review and outline of submittals (.4 hour X \$325.00/hour)	\$130.00
1/20/11	Conduct of mediation (one-half of travel time) (8.0 hours X \$325.00/hour)	\$2,600.00
	Meal expense	\$154.92
	Mileage expense (170 miles @. 50 per mile)	\$85.00

Exhibit A

	Telephone expense	\$5.25
	Photocopying expense	\$7.75
	<b>TOTAL FEES AND EXPENSES</b>	<b>\$4,022.92</b>

**TOTAL DUE BY EACH PARTY:        \$2,011.46**

**Please remit to:     Robert M. Erwin, Jr.  
                              Social Security Number:  
                              305 Main Street  
                              Greenwood, SC 29646**

**PLEASE RETURN A COPY OF THIS INVOICE WITH YOUR PAYMENT**